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LAW **9084/23**

Paper 2 **May/June 2017**

MARK SCHEME

Maximum Mark: 50

Published

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General Marking Guidance

This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

The mark bands and descriptors applicable to all questions on the paper are as follows.

Band 1
The answer contains no relevant material.

Band 2
The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3
The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4
Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue

OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5
The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

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Question	Answer	Marks
1(a)	**Explain how the Fixed-term Parliaments Act 2011 will apply in this situation.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that the election will not be valid. **and/or** • Reference to s1 Fixed-term Parliaments Act 2011 with little or no development. **Band 4 [6–7 marks]** Some development of s1 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the election will not be valid. The date is not that given under s1(3) but change in date is valid under s1(5) as it is within 2 months of the date in the Act and the Prime Minister has used a Statutory Instrument. The procedure in s1(6) has been followed as the Statutory Instrument has been laid before Parliament but it is awaiting approval. However it is not valid under s1(7) as the Prime Minister did not give a reason.	**10**
1(b)	**Explain how the Fixed-term Parliaments Act 2011 will apply in this situation.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that the election will not be valid. **and/or** • Reference to s1 and/or s3 Fixed-term Parliaments Act 2011 with little or no development. **Band 4 [6–7 marks]** Some development of s1 and/or s3 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the election will not be valid. The date for the election is valid under s1(3) but the date for dissolution of Parliament is invalid under s3(1) and s3(2) as 14 days is less than 25 days before the election. Also under s3(5)(a) Parliament cannot be dissolved on a Saturday so the election will be invalid.	**10**

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Question	Answer	Marks
1(c)	**Explain how the Fixed-term Parliaments Act 2011 will apply in this situation.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that the election will be invalid. **and/or** • Reference to s2 Fixed-term Parliaments Act 2011 with little or no development. **Band 4 [6–7 marks]** Some development of s1 and/or s2 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the election will not be valid. There can be an early election under s2(1). However, the motion is invalid under s2(1)(a) as although the House of Commons passes the motion according to s2(2) as the wrong wording is used. The vote is invalid under s2(1)(b) as the majority is not big enough.	**10**
1(d)	**Describe the different types of delegated legislation and critically evaluate the effectiveness of control methods on this type of law making.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes and/or discusses delegated legislation in very general terms. **Band 3 [7–13 marks]** Some more detailed references to types of delegated legislation and controls, perhaps focused on factual aspects and some general discussion. **Band 4/5 [14–20 marks]** Very good detail on types of delegated legislation and control methods alongside goo discussion of their effectiveness with relevant examples. To reach higher marks both parts of the question need to be dealt with in detail showing good critical awareness.	**20**

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Question	Answer	Marks
2(a)	**Explain how the Coroners and Justice Act 2009 will apply to Christine.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Christine will not be granted a witness anonymity order. **and/or** • Reference to Coroners and Justice Act 2009 s86 with little or no development. **Band 4 [6–7 marks]** Some development of s86 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Christine will not be granted a witness anonymity order. She may be covered by any of s86(2)(a), (b), (c), (d) or (e) so that she can be given some protection but she will fail under s86(4) as although she can be provided with some anonymity there is nothing which says she does not need to attend court. To reach Band 5 candidates should consider two or more of the provisions in s86(2).	**10**
2(b)	**Explain how the Coroners and Justice Act 2009 will apply to Piotr.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Piotr will be granted a witness anonymity order. **and/or** • Reference to Coroners and Justice Act 2009 s86 and s88 with little or no development. **Band 4 [6–7 marks]** Some development of s86 and/or s88 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Piotr will be granted a witness anonymity order. He will be covered by s86(2)(b) as he wants to use another name and s86(2)(e) as having his voice changed protects him and his family. Although his voice can be changed this is only within the limits of s86(4)(b). Condition A under s88(3)(a) or (b) are met in protecting Piotr and his family as well as the public interest since this is a gang murder, Condition B under S88(4) is met as there needs to be a fair trial and Condition C is met under s88(5) is met as Piotr is a vital witness having worked undercover.	**10**

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Question	Answer	Marks
2(c)	**Explain how the Coroners and Justice Act 2009 will apply to Anya.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Anya will be granted a witness anonymity order. **and/or** • Reference to Coroners and Justice Act 2009 s86 and s88 with little or no development. **Band 4 [6–7 marks]** Some development of s86 and/or s88 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Anya will be granted a witness anonymity order. She may be covered by any of s86(2)(a), (b), (c), (d) or (e) so that she can be given some protection as well as under s86(4). Condition A under s88(3)(a) is met as Anya is scared of Jacquetta's husband, Condition B under S88(4) is met as without Anya's evidence Jacquetta may not get a fair trial and Condition C is met under s88(5) is met as Anya's evidence is vital under (a) and without an order Anya would not meet (b) as she is frightened. Candidates can reach Band 5 having mentioned only one condition from s86(2) as long as it is applied to the scenario.	**10**
2(d)	**Describe and evaluate the role of the jury in criminal cases.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the role of the jury in a criminal trial in the Crown Court and/or evaluates this in very general terms. **Band 3 [7–13 marks]** Some more detailed description of the jury's role and some general evaluation of their role in a Crown Court trial. **Band 4/5 [14–20 marks]** Very good detail on the role of the jury in a criminal trial in the Crown Court and very good evaluation of their role. To reach higher marks all aspects of the question need to be dealt with showing good critical awareness.	**20**

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